IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO: 26443 of 1998

Between:

S. Radhakrishna Murthy,
H.No. 1-7-145/4, Golconda x Roads, Hyderabad.

..... PETITIONER

AND

1 UCO. Bank, Rep by its Zonal Manager
Kempegouda Road, Bangalore.
2 General Manager, Personnel Department, Head Office, 12, Old Court

House Street, Calcutta - 1.
3 Regional Manager, Anasuya Commercial Complex, Liberty Road,
Himayatnagar, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pleased to issue a writ, preferably a writ in the nature of writ of mandamus or any other appropriate writ, order or direction, while calling for records, directing the respondents to release the scale promotion forth with to the petitioner with effect from 01.01.88, with all consequential benefits including fixation of his pension and payment of arrears from the date of promotion with appropriate rate of interest on the arrears as the Honble court deems fit and proper in the ends of justice.

Counsel for the Petitioner: MR.P.V.RAVINDER KUMAR

Counsel for the Respondents: SMT.KAVITHA GOTTIPATI

The Court made the following:

ORDER:

This writ petition is filed seeking a writ of Mandamus directing the respondents to release the Scale promotion forthwith to the petitioner with effect from 01-01-1988 with all consequential benefits including fixation of his pension and payment of arrears from the date of promotion with appropriate interest thereon.

2. It is the case of the petitioner that he joined service of the UCO bank in the year 1963 and worked in several branches in various capacities and retired as Assistant Manager in Scale-I post from MG Road Branch, Secunderabad, on 30-06-1995 after attaining the age of superannuation. While working as a Manager at Atmakur Branch in Medak District, in the year 1988, he was declared as promoted from Scale-I to Scale-II Officer with effect from 01-01-1988 consequent to a promotion interview conducted by the Management through Departmental Promotion Committee. Accordingly, the name of the petitioner was included in the list of promotees released by the Head Office. Further, the name of the petitioner was also included and notified in the seniority list of Scale-II Officers released by the Head Office from time to time. Having come to know that he was promoted to Scale-II Officer, he waited for promotion orders along with his batch of promotees. To his utter surprise and dismay, he never received any letter. No reason for such non-communication of the promotion was assigned to him by the Management. Thereupon, he went on making representation after representation, but they all went in vein till the end of the year 1994. While the matter stood thus, the Zonal Office at Banglore instituted a departmental enquiry pursuant to some alleged irregularities, levelled against the petitioner, said to have been occurred during his tenure at Atmakur Branch in the year 1987. A charge sheet was served on the petitioner in the month of December, 1991. Subsequently, a belated domestic enquiry was conducted and finally that resulted in inflictment of punishment of stoppage of five increments with cumulative effect. However, the petitioner, as stated above, retired with effect from 30-06-1995. After retirement also, the petitioner went on making representations and finally on 02-03-1998, the respondent-bank intimated the petitioner through its letter No.Staff (ex)/967/97-98, that in view of

the punishment that was awarded to the petitioner, the release of the scale promotion was not considered and the 'Sealed Cover' system was followed. According to the petitioner, the respondent-bank erred in arriving at such decision, since by virtue of inclusion and notification by placing the petitioner in the list of Officers of Scale-II promotees, the 'Sealed Cover Procedure' had no relevance in the circumstances of the case. The Sealed Cover System will be applied to such candidates against whom some disciplinary proceedings are either pending or contemplated, who are under consideration for promotion through the DCP. Thus, when a candidate is facing a charge or a disciplinary enquiry is contemplated, the DPC keeps its assessment of such candidate as confidential and the resultant opinion will be kept in a sealed cover, which will not be opened unless the said disciplinary proceedings are completed. Whereas, in the case of the petitioner, the promotion list was released on 08-09-1988 effecting the promotions with effect from 01-01-1988. There was neither a charge sheet from the Management, nor any Court proceedings against the petitioner. More over, the bank has not intimated the petitioner that his name was kept in sealed cover, since that system was not adopted by the bank in his case. The evasive reply would only indicate the attitude of the respondent-bank. Hence, this writ petition.

3. A detailed counter-affidavit has been filed on behalf of the respondents and asserted that CBI took up an investigation, and being satisfied that there was a prima-facie case against the petitioner, filed an FIR and registered a regular case in R.C.No.18 (A)/88-Hyd., dated 30-06-1988. As the matter was investigated by the external agencies like CBI, the bank did not issue charge sheet nor proceeded departmental enquiry in view of the directives of the RBI in Circular No.DBOD NO.C.C.RC 59/C, 408 (a)-89 dated 06-01-1989, wherein it was *interalia* stated that no parallel proceedings should run when allegations are same. Therefore, the bank's Circular No.DHO/PAS/7/86 dated 05-02-1988 deals with the sealed cover system in terms of Government guidelines was followed. In para 1 Note of the said circular states that an officer shall not be debarred from participating in the promotion process merely on the ground that a preliminary enquiry or a regular case has been registered by the external agencies against him or complaints being looked into by a preliminary departmental enquiry. In compliance of the above, the petitioner was allowed to participate in the promotion process though investigation was going on against

him for the irregularities committed while he was working as a Manager at Atmakur Branch. The DPC was held on 08-09-1988 and the petitioner was identified by the DPC for promotion subject to sealed cover procedure. In fact, the bank did not initiate departmental proceedings in view of the matter being under investigation of CBI. The investigation report dated 21-01-1988 submitted by the officials of the bank revealed that there were gross irregularities committed by the petitioner in sanctioning and disbursing the loans, etc. The CBI submitted its report on 30-04-1991 in continuous process from the contemplation stages and the same was concluded with passing of final order on 09-07-1985 of the disciplinary authority and he was awarded punishment of reduction of basic pay from Rs.4,260/- to Rs.3,560/-. His appeal dated 30-03-1995 was considered by the appellate authority on 27-06-1995 and modified the order reducing to the lower stage of JM scale-I from the existing basic pay of Rs.4,260/- to Rs.3,660/-.

4. I have given my earnest consideration to the submissions made by the learned counsel on either side and also gone through the material made available on record.

5. At the outset, I am of the opinion that filing of this writ petition is in the nature of speculative and imaginary. Admittedly, when the petitioner's case was considered for promotion by the DPC, the CBI has already launched an enquiry and investigation was going on. Further, in view of the instructions issued by the RBI, the department could not go ahead since the enquiry was going on, and only after concluding the enquiry by the CBI, the departmental proceedings were initiated and ultimate punishment was imposed making him disqualified for being promoted to the Scale-II Officer's post. In the circulars issued by the bank, when an external agency has started enquiry into the matter, the DPC may consider the case subject to Sealed Cover Procedure. In this case, admittedly, the petitioner was promoted, but in view of the fact that the enquiry was going on, may be by an external agency, the promotion could not be given effect to and thereafter the department itself has taken up the enquiry and punishment of stoppage of increments was inflicted which ended in some modification by the appellate authority. This all would show that during the pendency of the enquiry, the case of the petitioner was considered subject to sealed cover procedure and the enquiry was concluded which resulted in

inflictment of punishment. Hence, the case of the petitioner that there was no procedure of “sealed cover system” in the bank and his name finds place in the selected list of the Scale-II Officers post is baseless and untenable. Therefore, the intimation given to him on 02-03-1998, stating that on the examination of the representation of the petitioner it was noted by the head office that consequent upon the punishment awarded to the petitioner, the question of releasing his promotion to the Scale-II was not considered in accordance with the Government guidelines, cannot be said to be either arbitrary or illegal. The writ petition is speculative and imaginary, and absolutely there are no merits to be considered. Therefore, the writ petition is liable to be dismissed.

6. Accordingly, the writ petition is dismissed. No order as to costs.

C.V.RAMULU, J

04th July, 2005

SKM

Copy to:

1 The Zonal Manager, UCO. Bank,
Kempegouda Road, Bangalore.
2 The General Manager, Personnel Department, Head Office, 12, Old

Court House Street, Calcutta - 1.
3 The Regional Manager, Anasuya Commercial Complex, Liberty Road,
Himayatnagar, Hyderabad.

4 Two C.D. Copies.

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